

been determined to be not significant for purposes of Executive Order 12866.

*Executive Order 13132 (Federalism):* It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

*Administrative Procedure Act/Regulatory Flexibility Act:* Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for rules concerning grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: March 26, 2010.

**John R. Fernandez,**

*Assistant Secretary of Commerce for Economic Development.*

[FR Doc. 2010-7467 Filed 4-1-10; 8:45 am]

**BILLING CODE 3510-24-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 00323162-0165-01]

RIN 0648-XV30

#### Endangered and Threatened Species; 90-Day Finding on a Petition to Delist Coho Salmon South of San Francisco Bay

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of 90-day petition finding; request for information.

**SUMMARY:** We, the National Marine Fisheries Service (NMFS), are accepting a 2003 petition to delist coho salmon (*Oncorhynchus kisutch*) in coastal counties south of the ocean entrance to San Francisco Bay, California, from the Federal List of Endangered and Threatened Wildlife under the Endangered Species Act (ESA) of 1973, as amended. Coho salmon populations in this region are currently listed under the ESA as part of the Central California Coast (CCC) Evolutionarily Significant Unit (ESU). This action is being taken in response to a February 8, 2010, U.S. District Court decision that our previous rejection of the petition in 2006 was arbitrary and capricious. To ensure a comprehensive review, we are soliciting

scientific and commercial data and other information relevant to the status of coho salmon in the coastal counties south of San Francisco Bay. We will publish the results of that review and will make a finding as to whether the petitioned action is or is not warranted on or before February 8, 2011.

**DATES:** Written comments, data and information related to this petition finding must be received no later than 5 p.m. local time on June 1, 2010.

**ADDRESSES:** You may submit comments, identified by the RIN 0648-XV30, by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Facsimile (fax): 562-980-4027, Attn: Craig Wingert
- Mail: Submit written comments to the Assistant Regional Administrator, Protected Resources Division, Attn: Craig Wingert, Southwest Region, National Marine Fisheries Service, 501 W. Ocean Blvd., Suite 5200, Long Beach, CA, 90802-4213.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publically accessible. Do not submit confidential business information or otherwise sensitive or protected information. We will accept anonymous comments (if you wish to remain anonymous enter N/A in the required fields). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

A copy of the petition and related information may be obtained by submitting a request to the Assistant Regional Administrator, Protected Resources Division, Attn: Craig Wingert, Southwest Region, National Marine Fisheries Service, 501 W. Ocean Blvd., Suite 5200, Long Beach, CA, 90802-4213 or from the internet at: <http://swr.nmfs.noaa.gov/>.

**FOR FURTHER INFORMATION CONTACT:** Craig Wingert, NMFS, Southwest Region, (562) 980-4021; or Marta Nammack, NMFS, HQ, (301) 713-1401.

#### SUPPLEMENTARY INFORMATION:

##### Background

Coho salmon in Santa Cruz and coastal San Mateo counties south of San Francisco Bay are part of the larger CCC coho salmon ESU. The CCC coho salmon ESU was listed as a threatened

species on October 31, 1996 (61 FR 56138), and subsequently reclassified as an endangered species on June 28, 2005 (70 FR 37160). For more information on the status, biology, and habitat of this coho salmon ESU, please refer to “Endangered and Threatened Species: Proposed Listing Determinations for 27 ESUs of West Coast Salmonids; Proposed Rule” (69 FR 33102; June 14, 2004) or “Final Rule Endangered and Threatened Species; Threatened Status for Central California Coast Coho Salmon Evolutionarily Significant Unit (ESU)” (61 FR 56138; October 31, 1996).

On November 25, 2003, we received a petition from Mr. Homer T. McCrary, a Santa Cruz County forestland owner, to redefine the southern extent of the CCC coho salmon ESU by excluding coastal populations of coho salmon south of San Francisco Bay, California, from the ESU. An addendum to the petition (dated February 6, 2004) was received on February 9, 2004, that provided additional information to clarify the original petition and respond to new information regarding museum specimens of coho salmon from the area south of San Francisco Bay. The ESA authorizes an interested person to petition for the listing or delisting of a species, subspecies, or Distinct Population Segment (DPS)(16 U.S.C.1533(b)(3)(A)). The ESA implementing regulations contain the factors to consider for delisting a species (50 CFR 424.11(d)). A species may be delisted for one or more of the following reasons: the species is extinct or has been extirpated from its previous range; the species has recovered and is no longer endangered or threatened; or investigations show the best scientific or commercial data available when the species was listed, or the interpretation of such data, were in error.

Section 4(b)(3)(A) of the ESA requires that, to the maximum extent practicable, within 90 days after receiving a petition, the Secretary shall make a finding whether the petition presents substantial scientific information indicating that the petitioned action may be warranted (90-day finding). The ESA implementing regulations for NMFS define “substantial information” as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted (50 CFR 424.14(b)(1)). If a positive 90-day finding is made, then NMFS must promptly conduct a status review of the species concerned and publish a finding indicating whether the petitioned action is or is not warranted within one year (1-year finding).

On March 23, 2006, we published a 90-day finding in the **Federal Register** (71 FR 14683) stating that the petition did not present substantial information indicating that delisting coho salmon south of San Francisco Bay may be warranted. On March 31, 2006, the petitioner challenged that finding, alleging violations of the ESA and the Administrative Procedure Act. *Homer T. McCrary v. Carlos Gutierrez, et al.*, No. 06-cv-86-MCE (E.D. Cal.). The venue for the case was subsequently transferred to the Northern District Court in San Jose, California, No. C-08-01592-RMW (N.D. Cal.).

On February 8, 2010, the court issued an order stating that our decision to deny the petition was arbitrary and capricious. The court found that we failed to follow the proper statutory procedures for reviewing petitions under the ESA, by using information beyond the four corners of the petition, and in applying the 1-year standard of whether the petitioned action "is or is not warranted," rather than the 90-day standard of whether the petitioned action "may be warranted." The court vacated our March 23, 2006, finding and remanded the petition to NMFS for review in accordance with 16 U.S.C. 1533(b)(3)(A).

### The Petition

Mr. McCrary's petition requests that we redefine the southern boundary of the CCC coho salmon ESU. The petition clearly identified itself as a petition and included the identification information for the petitioner, as required in 50 CFR 424.14(a). The petition claims coho salmon were introduced into Santa Cruz County, California, in 1906 and until that time, aside from possible occasional strays, no self-sustaining native coho salmon populations existed in the streams south of San Francisco Bay, California. The petition asserts the legal and factual criteria supporting the listing of coho salmon under the ESA, as amended, were in error based on historical and scientific data presented in the petition. The petition argues coho salmon populations currently present in the coastal watersheds south of San Francisco Bay, California, are most likely non-native and persist there only due to artificial propagation, and for this reason do not constitute an important component in the evolutionary legacy of the species. Additionally, through the initial petition and subsequent written correspondence between NMFS' Southwest Fisheries Science Center (SWFSC) in Santa Cruz, California, and Southwest Regional Office in Long Beach, California, the petitioner asserted coho salmon in the area should be

delisted because they are not evolutionarily significant populations and their inclusion in the CCC coho salmon ESU is inconsistent with NMFS' ESU policy for Pacific salmon (Waples, 1991). Based on this and other information detailed in the petition and addendums, the petitioner has requested that NMFS delist populations of CCC ESU coho salmon south of San Francisco Bay and redefine the southern boundary of CCC ESU coho salmon to north of San Francisco Bay.

Information used to support the petitioner's assertion that coho salmon are not native south of San Francisco Bay, and therefore, erroneously listed, is predicated on: (1) early scientific and historical accounts indicating that the entrance to San Francisco Bay is the southern boundary for coho salmon; (2) the absence of coho salmon in the archeological record; (3) differences in geology, climate, and hydrology between regions north and south of San Francisco Bay; and (4) human intervention through out-of-area (i.e., non-native) coho salmon plantings to streams in coastal San Mateo and Santa Cruz counties which resulted in the establishment of coho salmon in the area.

We considered all additional information provided by the petitioner and individuals providing supplemental information on his behalf to NMFS and our SWFSC from 2004 2005 to be addendums to the original November 23, 2003, petition.

### Petition Finding

In order to address errors in the previous handling of the petition, we are accepting the petition and initiating a review of the status of CCC coho populations south of San Francisco Bay.

### Information Solicited

To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning coho salmon in coastal streams south of San Francisco Bay in San Mateo and Santa Cruz counties. We request information from the public, concerned governmental agencies, Native American tribes, the scientific community, agricultural and forestry groups, conservation groups, industry, or any other interested parties concerning the current and/or historical status of coho salmon in coastal streams south of San Francisco Bay. Specifically, we request information on: (1) published accounts from historical or scientific sources regarding the presence, absence, and distribution of coho salmon in streams south of San

Francisco Bay prior to 1906; (2) archeological evidence regarding presence or absence of coho salmon in streams south of San Francisco Bay; (3) genetic information comparing coho salmon in the streams south of San Francisco Bay with coho salmon in streams north of San Francisco Bay within the range of the CCC coho salmon ESU, and in other coho salmon ESUs; (4) differences or similarities in climate, geology, and hydrology of watersheds in Santa Cruz and coastal San Mateo counties compared with watersheds in the northern portion of the CCC coho salmon ESU range (coastal Marin County to Punta Gorda in southern coastal Humboldt County), and the effects of these habitat differences on coho salmon; and (5) the reproductive isolation of coho salmon in coastal San Mateo and Santa Cruz counties and the importance of these populations to the evolutionary legacy of the CCC coho salmon ESU in light of NMFS' ESU policy (56 FR 58612; November 20, 1991).

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the ESA directs that a determination must be made "solely on the basis of the best scientific and commercial data available." On or before February 8, 2011, we will issue a 1-year finding based on a review of the best scientific and commercial data available, including all relevant information received from the public in response to this 90-day finding.

You may submit your information concerning this finding by one of the methods listed in the **ADDRESSES** section. Please note that we may not consider comments we receive after the date specified in the **DATES** section in our final determination. If you submit your information via <http://www.regulations.gov>, your entire submission including personal identifying information will be posted on the website. If your submission is made via hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hard copy submissions on <http://www.regulations.gov>. Information and materials we receive, as well as supporting documentation we used in preparing this finding, will be available for public inspection, by appointment, during normal business

hours at NMFS' Southwest Region Office.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: March 30, 2010.

**Eric C. Schwaab,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

[FR Doc. 2010-7493 Filed 4-1-10; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XU93

#### Notice of Intent to Prepare an Environmental Assessment for a Proposed Rule to Revise Marine Mammal Special Exception Permit Requirements

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of Intent to prepare Environmental Assessment; extension of comment period.

**SUMMARY:** On March 10, 2010, NMFS announced its intent to prepare an Environmental Assessment (EA) to analyze the potential environmental impacts of a proposed rule to revise federal regulations implementing the Section 104 permit provisions of the Marine Mammal Protection Act (MMPA) with written comments due by May 10, 2010. NMFS has decided to allow additional time for submission of public comments on this action.

**DATES:** The public comment period for this action has been extended by 30 days. Written comments must be received or postmarked by June 10, 2010.

**ADDRESSES:** Written comments should be mailed to: P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910-3226. Comments may also be submitted by facsimile to (301) 713-0376 and confirmed by hard copy, or by email to [mmpermitregs.comments@noaa.gov](mailto:mmpermitregs.comments@noaa.gov). Please include "Permit Regulations NOI" in the subject line of the email.

**FOR FURTHER INFORMATION CONTACT:** Amy Sloan or Jennifer Skidmore, (301) 713-2289.

**SUPPLEMENTARY INFORMATION:** NMFS has developed proposed revisions, additions, and restructuring of NMFS

marine mammal permit application procedures and permit requirements to form the basis of one or more alternatives to be evaluated in an EA for a Proposed Rule. The internal scoping summary document for public review is available at: [http://www.nmfs.noaa.gov/pr/permits/mmpa\\_regulations.htm](http://www.nmfs.noaa.gov/pr/permits/mmpa_regulations.htm).

NMFS will consider all comments received during the comment period. All hardcopy submissions must be unbound, on paper no larger than 8½ by 11 inches (216 by 279 mm), and suitable for copying and electronic scanning. NMFS requests that you include in your comments: (1) Your name and address; and (2) Any background documents to support your comments, as you feel necessary. A draft EA will be made available for public review concurrent with publication of a notice of proposed rulemaking.

Dated: March 29, 2010.

**P. Michael Payne,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2010-7492 Filed 4-1-10; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management, National Ocean Service, Commerce.

**ACTION:** Notice of intent to evaluate and notice of availability of final findings.

**SUMMARY:** The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Louisiana Coastal Management Program and the Great Bay (New Hampshire) National Estuarine Research Reserve. The Coastal Zone Management Program evaluation will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972, as amended (CZMA) and regulations at 15 CFR part 923, subpart L. The CZMA requires continuing review of the performance of states with respect to coastal program implementation. Evaluation of a Coastal Management Program requires findings concerning the extent to which a state has met the national objectives, adhered to its Coastal Management Program document approved by the Secretary of

Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

The National Estuarine Research Reserve evaluation will be conducted pursuant to sections 312 and 315 of the CZMA and regulations at 15 CFR part 921, subpart F and part 923, subpart L. Evaluation of a National Estuarine Research Reserve requires findings concerning the extent to which a state has met the national objectives, adhered to its Reserve final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA.

Each evaluation will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. A public meeting will be held as part of the site visit. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings. Notice is hereby given of the date of the site visits for the listed evaluations, and the date, local time, and location of the public meetings during the site visits.

**Dates and Times:** The Louisiana Coastal Management Program evaluation site visit will be held May 10-14, 2010. One public meeting will be held during the week. The public meeting will be held on Monday, May 10, 2010, at 6:30 p.m. at the LaSalle Building (Capitol Complex), Griffon Room, 1st Floor, 617 North 3rd Street, Baton Rouge, Louisiana.

The Great Bay (New Hampshire) National Estuarine Research Reserve evaluation site visit will be held May 17-21, 2010. One public meeting will be held during the week. The public meeting will be held on Wednesday, May 19, 2010, at 7 p.m. at the Great Bay National Estuarine Research Reserve, Hugh Gregg Coastal Conservation Center, 89 Depot Road, Greenland, New Hampshire.

**ADDRESSES:** Copies of states' most recent performance reports, as well as OCRM's evaluation notification and supplemental information request letters to the state, are available upon request from OCRM. Written comments from interested parties regarding this Program are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Kate Barba, Chief, National Policy and Evaluation Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, N/ORM7, Silver Spring, Maryland 20910.